



Cross-Cutting Issues News for May 30, 2012

OGC CCILO, Quoc Nguyen, Tseming Yang, Neil Bigioni, Tim Williamson, Allyn Stern, Becky Dolph, Bertram Frey, Carl Dierker, Cyndy Mackey, David Allnutt, Eric Schaaf, Lydia Mary Grady to: Isales, Marcia Mulkey, Meg Silver, Nancy Marvel, Peter Ornstein, Robert Kaplan, Robert Moyer, Robert Ward, Suzanne Murray, Ben Harrison, David Cozad, Daniel Schramm, Grant MacIntyre, Mike Walker, Mindy Kairis 05/30/2012 10:25 AM

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CROSS-CUTTING ISSUES NEWS
MAY 30, 2012

BNA, Inc.

Daily Environment

REPORT

HIGHLIGHTS

Drilling
Federal Appeals Court Rejects Challenges To Shell's Exploration Plans in Arctic Waters

ANCHORAGE, Alaska—A federal appeals court has dismissed challenges to the Obama administration's approval of Shell's plans to start drilling for oil this summer in Arctic waters off Alaska, rejecting arguments made by environmental...

Energy
Republicans Threaten Interior With Subpoena For Renewable Energy Project Information

Republican leaders from both chambers of Congress are threatening to subpoena the Interior Department, saying in a May 29 letter that the department has refused to provide information about Energy Department loan guarantee recipients who...

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Inside EPA's Environmental Policy Alert, 5/30/12
<http://insideepa.com/Environmental-Policy-Alert/Environmental-Policy-Alert-05/30/2012/menu-id-132.html>

EPA Children's Office Seeks Pediatric Experts For Perchlorate Review Panel

EPA's children's health office is seeking to ensure that several pediatric experts are selected for the Science Advisory Board (SAB) panel that will review the agency's proposed health goal for perchlorate, a move that could bolster the agency's approach, which sought to protect children and pregnant women from the chemical's harmful effects.

EPA Enforcement Seen Shaping Fracking Policy Despite Regulatory Limits

EPA is increasingly using settlements in oil and gas enforcement cases to secure monitoring, permitting and other measures, in what industry sources say could be a strategy for shaping the agency's upcoming hydraulic fracturing policies given statutory and resource limitations that are making it difficult for EPA to craft formal regulatory policies.

Latest Blogs

Activists Intensify Push For CWA Guide
Environmentalists are intensifying their pressure on the Obama administration to issue a long-awaited guidance clarifying the jurisdictional scope of the Clean Water Act (CWA), citing . . .

Greenwire

TRACKING POLICY, POLITICS AND THE PRESS



FORESTS:
Cascading species shift looms in fire-starved Eastern woods

From Arkansas to New England, many of the forests of the eastern United States -- woods shaped by humans for thousands of years -- are now enmeshed in a near-unstoppable, decades-long shift in character. Growing dark and moist, they are shedding species, turning into sparse biological deserts. These woods rebounded even after the clear-cutting of the 19th century, only to be laid low by a generation of zealous protection. And to survive, scientists say, they must burn. [Go to story #1](#)

ARCTIC: Appeals court backs Shell's exploration plans for Alaska waters

Phil Taylor, E&E reporter

Published: Tuesday, May 29, 2012

A federal appeals court late last week upheld an oil company's plan to drill a handful of new wells this summer in the Arctic Ocean, clearing the way for a project that could unlock the nation's largest untapped oil deposit.

The ruling Friday by the 9th U.S. Circuit Court of Appeals affirms the Interior Department's decisions last year to issue exploration plans allowing Royal Dutch Shell PLC to drill five wells beginning in July in the Beaufort and Chukchi seas.

The three-judge panel rejected claims by more than a dozen native Alaskan and environmental groups that Shell's exploration plan lacked critical information on how it would cap and contain oil in the case of a blowout and that approval was granted before issuance of an oil spill response plan, among other claims.

In a 27-page opinion, the court said Interior's approval of a revised oil spill response plan in March rendered much of the groups' argument moot.

In a separate vein, the court said it trusts the expertise of agency scientists to reconcile Shell's evolving plans to deploy a capping stack and drill a relief well in the case of a spill.

"Whether well-capping technology is now feasible in the Arctic is a technical issue that lies squarely within the agency's scientific expertise and, therefore, is accorded great deference by a reviewing court," the court wrote.

Lastly, the court ruled that the Bureau of Ocean Energy Management had broken no laws when it issued an exploration plan on the condition that Shell provide additional information, arguing that the agency had properly determined the plan would not "'probably cause serious harm or damage' to life, property or the human, marine, or coastal environment."

The ruling is a major victory in the company's \$4 billion quest to explore a region believed to hold about 27 billion barrels of oil. Although roughly three dozen exploration wells have been drilled in Arctic waters since 1982, Shell's project would be the first in more than 20 years.

The court noted it was the third time the government has had to defend its approval of a Shell exploration plan against challenges by environmental groups.

Last week's ruling marks the second time the 9th Circuit has upheld the Obama administration's approval of Shell drilling in the Arctic. The last decision in May 2010, however, quickly became moot after the government shut down all exploratory drilling in the wake of the Deepwater Horizon disaster in the Gulf of Mexico.

Alaska Sen. Mark Begich (D), who last week toured Shell's Kulluk drilling rig in Seattle, today praised the court's decision.

"We have worked with the administration tirelessly to clear hurdles and secure permits for oil and gas exploration in the Arctic and with the 2012 season here, I'm glad to see the courts keep the process moving forward," Begich said in an emailed statement.

Alaska Sen. Lisa Murkowski (R) said the court's decision is further evidence that Shell's drilling program has been held to the highest standards yet for offshore drilling.

"It confirms that the government was right to issue the leases to begin with," Murkowski spokesman Robert Dillon said. "This has been through a very painstaking, long, drawn-out process -- certainly a process we think was unnecessarily long, but one that should be above reproach."

Emilie Surrusco, a spokeswoman for the Alaska Wilderness League, which joined the Center for Biological Diversity, Natural Resources Defense Council, Audubon Society and others in filing the lawsuit, said that the group was disappointed in the decision but that lawyers were still reviewing the document.

Numerous hurdles remain before Shell can begin drilling this summer, including a separate lawsuit in the same appeals court challenging the company's air permits (*Greenwire* , May 17).

The company must also obtain permits from the Fish and Wildlife Service to allow incidental disturbance of polar bears and walrus as well as drilling permits from the Bureau of Safety and Environmental Enforcement for each individual well.

In addition, Shell officials this month said unusually heavy ice cover could delay drilling operations by up to two weeks, threatening the feasibility of an already short drilling season, the *Los Angeles Times* reported.

The company agreed to wrap up drilling in the Beaufort Sea by the end of October but will also suspend operations beginning Aug. 26 until the villages of Kaktovik and Nuiqsut have completed their fall whale hunts. In the Chukchi, operations will cease in September to allow adequate cleanup time before the onset of ice.

In a separate action, Shell has filed a pair of pre-emptive legal volleys in defense of its oil spill response plans and permits to disturb

whales and seals (*E&ENews PM* , May 4).

ENDANGERED SPECIES:

Budget woes force zoos to choose which animals to save

Published: Tuesday, May 29, 2012

As the number of endangered species across the world continues to increase, zoos are stepping in to rehabilitate populations and re-release them into the wild. But limited resources mean zoos face difficult choices over which animals to save.

Some endangered animals in captivity might face challenges that extend beyond the zoos in which they live. Species advisory groups for North American zoos evaluate whether the species in captivity has enough genetic diversity to merit further efforts. If not, the animal is placed on a phase-out list.

There have been calls for zoos to move from existing as an entertainment platform to one that focuses more on conservation efforts.

Jeffrey Bonner, president and CEO of the St. Louis Zoo, said he has felt the tug between entertainment and conservation. Recently, the zoo spent \$18 million on a new pool for sea lions in lieu of certain projects for endangered animals. While sea lions are doing fine in the wild, they are one of the zoo's most popular attractions -- and their zoo home was decrepit.

But at the same time, the St. Louis Zoo also does conservation work (*Greenwire* , April 26).

"We are always balancing the public experiencing with conservation needs," Bonner said. "If you ask me why I have camels, I would say that we need something interesting for people to see at the back of the zoo in winter, and they are always outside" (Leslie Kaufman, *New York Times* , May 27). -- **WW**

RENEWABLE ENERGY:

Wind farms mull radar detectors to stop bird deaths

Published: Tuesday, May 29, 2012

Wind farms are considering the use of radar units and experimental telemetry systems that would switch off turbines when birds were detected nearby.

Wind turbines have been at the center of a conservation controversy as birds from the critically endangered California condors to the federally protected golden eagles have been killed by the blades.

"The greatest threat to migrating birds in my lifetime is unfolding in those mountains," said Jesse Grantham, former California condor coordinator for the Fish and Wildlife Service. "As for condors, the strikes are inevitable. They travel together when a food source appears, so a single turbine blade could take out a lot of them in one swing."

But radar systems are costly and offer no guarantee they will work. For one, they would have to differentiate between the behaviors of different species. While condors soar thousands of feet high, golden eagles swoop fast and close to the ground, and migrating songbirds fly low. The San Diego Zoo is developing a telemetry system that would provide real-time data on California condors outfitted with transmitters. The system would then automatically shut down turbines if a condor flew into a striking range.

One potential customer for such a detection system is the Los Angeles Department of Water and Power. The department's wind tree farm is under federal investigation after the discovery of eight golden eagle carcasses at its site (Louis Sahagun, *Los Angeles Times* , May 28). -- **JE**

DOJ:

Environmental enforcement on oversight panel's agenda

Lawrence Hurley, E&E reporter

Published: Wednesday, May 30, 2012

Justice Department enforcement of the nation's environmental laws will be the focus of a House oversight hearing later this week.

Ignacia Moreno, head of the department's Environment and Natural Resources Division, will testify during tomorrow's afternoon session of the House Subcommittee on Courts, Commercial and Administrative Law. At the same hearing, committee members will also examine the activities of DOJ's tax and civil divisions.

One of the issues Moreno may face questions on is the Obama administration's enforcement of the Lacey Act, the anti-wildlife trafficking law that some conservative members of Congress have been critical of in recent months (*Greenwire* , May 15).

Congress is currently considering legislation that would pare back some provisions of the statute.

Last month, speaking before an audience of lawyers, Moreno said that prosecutions under the Lacey Act continued to be "a priority for the division" (*E&ENews PM* , April 26).

As for the division's overall performance, Moreno will likely point to the fact that lawyers secured nearly \$626 million in civil penalties, including more than \$375 million that is earmarked for Superfund spending, in fiscal 2011.

In the criminal arena, the division resolved 50 cases involving 75 defendants. More than \$31.2 million in criminal fines and other penalties was secured, in addition to 47 years of jail time.

Schedule:The hearing is tomorrow at noon in 2141 Rayburn.

Witness: Assistant Attorney General Ignacia Moreno.

TRANSMISSION: BLM moves closer to approving major multistate power line

Scott Streater, E&E reporter

Published: Tuesday, May 29, 2012

The Bureau of Land Management has taken a major step toward authorizing one of the nation's largest proposed electricity transmission projects, releasing a draft plan that the agency said addresses lingering concerns about impacts to nearby military installations and sensitive wildlife habitat.

BLM today published in the *Federal Register* a draft environmental impact statement (EIS) for the 530-mile-long SunZia Southwest Transmission Project that has been under federal review for three years. The power line would have the capacity to transport as much as 4,500 megawatts of mostly renewables-generated electricity from northeast New Mexico to an electric distribution point northwest of Tucson, Ariz. Once there, it would connect to a larger grid powering metropolitan areas like Phoenix and Los Angeles.

The three-volume draft EIS is open for public comment through Aug. 22. BLM expects to issue a final EIS and a record of decision (ROD) authorizing the project by the end of the year, said Donna Hummel, a BLM spokeswoman in Santa Fe, N.M.

Ian Calkins, a spokesman for SunZia Transmission LLC, the Phoenix-based company that has proposed building the power line, said the company wants to start construction next year and bring the transmission line into service by 2016.

"We appreciate the persistent and professional efforts of the BLM and over a dozen federal and state agencies involved in the creation of this draft EIS," Tom Wray, the company's SunZia project manager, said in a statement. "Upon issuance of a final EIS, SunZia will concentrate on obtaining all remaining siting approvals in both Arizona and New Mexico."

The Obama administration has identified the SunZia transmission line as a priority project, and Interior Secretary Ken Salazar vowed last year to accelerate the federal permitting process for SunZia and seven other transmission projects in 12 states (*Greenwire* , Oct. 5, 2011).

The SunZia line -- which could carry enough electricity to power more than 1.5 million homes -- is also viewed as critical to meeting renewable portfolio standards (RPS) in both New Mexico, where 20 percent of generation must come from renewables by 2020, and Arizona, which must meet a 15 percent RPS by 2025. Dozens of solar, geothermal and wind power projects are under development in the two states, and proponents say the new line would transport power from remote generation sites to major load centers.

But BLM's "preferred alternative" outlined in the draft EIS is a significantly altered version of the original 2009 proposal, adding about 70 miles to the original route in an effort to move the line away from sensitive wildlife habitat and a nearby Army missile testing range in southwest New Mexico.

"The BLM has been working with its cooperating agencies to respond to the issues raised by the public. We feel the draft EIS provides for a balanced approach to resolving these planning issues," Bill Merhege, BLM's deputy state director for lands and resources in Santa Fe, said today in a statement.

Most concerning are the potential impacts of the proposed project on weapons testing at the White Sands Missile Range -- the nation's largest military installation, covering 3,200 square miles.

The Army warned BLM two years ago that an errant missile or rocket could strike one of the high-tower transmission lines -- some as tall as 175 feet -- proposed along the northern, eastern and western borders of the range, potentially wiping out a large section of the West Coast's electricity grid (*Land Letter* , April 8, 2010).

Most of the 70 miles added to the power-line route was proposed to avoid encroaching on White Sands and the Army's Fort Bliss to the south. The preferred alternative would take the route of the line much farther north and west away from the White Sands Missile Range, according to the draft EIS.

The Army and the Air Force were both cooperating agencies involved in the draft EIS.

Officials with the missile range declined to say much about the draft EIS. "White Sands Missile Range is a cooperating agency on the SunZia EIS. During this period of review, we will not be making any public comments concerning the draft EIS," Monte Marlin, the base's chief of public affairs, said today in an emailed statement to *Greenwire* .

Hummel, the BLM spokeswoman, said the agency is trying to accommodate the military as much as possible.

"The additional miles are not based only on the military installations, but we were looking at how to preserve and protect their functions

and purposes while still offering the project proponent an economically feasible route," she said.

But, Hummel acknowledged, "there still appears to be some military concerns" about the route of the project.

"The military understood there was going to have to be a decision made, and we were going to have to select a preferred route," she said. "We believe this is the best that we could do given the information we have to avoid as many of the conflicts that were brought up during public scoping."

Environmental obstacles

BLM also amended the line's route in the preferred alternative to stay within existing utility corridors as much as possible. Under the agency's preferred option, more than half the line's route, or 296 miles, would run parallel to existing or designated utility corridors, with 220 miles running parallel to existing transmission lines.

The proposed project consists of two parallel 500-kilovolt lines running across southern New Mexico and Arizona in a 400-foot-wide right of way, though some sections would require up to 1,000 feet of right of way, according to the draft EIS.

As with most multistate projects, there are plenty of environmental concerns, including the SunZia line's possible impacts to publicly owned habitat for the threatened aplomado falcon in New Mexico's Bosque del Apache National Wildlife Refuge, and to migratory birds and environmentally sensitive wildlife habitat in southern Arizona.

The project, for example, would cross the Rio Grande and would involve siting transmission towers along the San Pedro River Valley in southern Arizona. The valley is an important layover for more than 4 million migratory birds each year and provides habitat for deer, bobcats and mountain lions.

The San Pedro also is one of the last free-flowing rivers in the Southwest, and some fear the towers and lines, if not properly sited, could interrupt that flow.

Critics, including Rep. Raúl Grijalva (D-Ariz.), have publicly urged BLM to route the line so that it avoids the San Pedro River Valley.

The draft EIS includes extensive mitigation, but environmentalists who have tracked the power-line project say they need a lot of time to read the multivolume document and multiple appendixes, which in total are thousands of pages long.

"I would say that we're still digesting the details," said Jeremy Nichols, the climate and energy program director for WildEarth Guardians.

Environmental groups, including the Wilderness Society and WildEarth Guardians, have been generally supportive of the SunZia project in the past, noting that project proponents reached out to them early in the process and have worked with them since the project was formally proposed in 2009.

But Sandy Bahr, director of the Sierra Club's Grand Canyon chapter in Phoenix, said an initial review of the draft EIS raises concerns.

"It looks like the issues relative to the lower San Pedro River Valley and the Aravaipa Valley are still significant," Bahr said. "At this point, I have to say we still have significant concerns with it."

Hummel said BLM is confident the latest project route has minimized environmental impacts, but she said the line's route could still be tweaked before a final EIS is released.

"These kinds of projects are never easy," she said. "There were issues about environmentally sensitive lands not only in Arizona but also here in New Mexico. It has been a long haul, but given the number of comments raised in public scoping, the preferred alternative does seem to offer the least number of concerns."

[Click here](#) to read the draft EIS.

Streater writes from Colorado Springs, Colo.

AIR POLLUTION: Smog stifles sequoias in Calif. national parks

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Seedling giant sequoia redwoods are having trouble in Sequoia and Kings Canyon national parks, home to some of the largest and oldest organisms in the world. Smog from the nearby San Joaquin Valley is choking out the younger trees.

Stands of the park's Jeffrey and ponderosa pines are exhibiting yellowed needles, which happens when the trees take in ozone rather than carbon dioxide. The ozone blocks photosynthesis. Young redwoods have an especially difficult time.

"It's not a great story to tell, but it's an important story to tell because you can look at us as being the proverbial canary in a coal mine," said Annie Esperanza, a park scientist who has studied air quality there for 30 years. "If this is happening in a national park that isn't even close to an urban area, what do you think is happening in your backyard?"

The air pollution affects humans, as well. The smog in the area can be so bad that the parks' staff members put up signs when it isn't safe to hike. Also, the government's employment website cautions job applicants that the workplace is unhealthy.

San Joaquin Valley is home to a large agricultural industry as well as California's two busiest north-south trucking highways and several diesel freight-train corridors. When sunlight interacts with pollutants like nitrogen oxides and components in motor vehicle exhaust, solvents, pesticides, gasoline vapors and decaying dairy manure, it creates smog (Tracie Cone, [*AP/San Francisco Chronicle*](#) , May 29).
-- WW

ClimateWire -- Wed., May 30, 2012 -- [Read the full edition](#)

1. PUBLIC OPINION: Researchers see a silent majority supporting climate change action as a 'social issue'

America's "silent jury" on climate change is seen by some researchers as an important majority that could swing society into action to confront rising temperatures. They're the people whose emotions haven't yet colored their thinking about climate science and what should, or should not, be done to pinch off greenhouse gas emissions and begin adapting the nation to deal with the impacts of global warming.

2. TECHNOLOGY: Hundreds of materials might make carbon capture work -- study

What engineers call "parasitic load" is a major barrier for carbon capture. The peculiar term refers to the problem that most familiar carbon capture methods planned for coal-fired power plants use so much energy that commercial electricity generation becomes uneconomical. But a new study suggests a solution to this long-term problem for carbon capture, at least one that exists in the realm of theory.

TODAY'S STORIES

3. FINANCE: Clash intensifies over cost, impacts of giant Indian coal-fired power plant

4. NATIONS: Pakistan's energy shortfall fuels dispute over coal

5. REGULATION: Report asserts that coal's obituary is premature

6. POLICY: Can the U.S. and Canada set an agenda for the rapidly changing Arctic?

7. ENERGY: Is gas's 'golden age' a challenge for the climate?

8. POLITICS: Can N.J. lawmakers push their state back into greenhouse gas initiative?

9. CALIFORNIA: Awareness of sea-level rise risks increase, but action lags, study finds

10. TECHNOLOGY: Supercomputer is a potential game-changer for climate modeling

11. CARBON CAPTURE: U.S. and Canada expect to open commercial CCS plants before Europe

12. SPECIES: Some animals are not taking advantage of warmer real estate

E&ETV's OnPoint

13. DEFENSE: Retired Lt. Gen. Sorenson discusses Pentagon's mandate on efficiency, renewables

EnergyWire -- Wed., May 30, 2012 -- [Read the full edition](#)

1. ENFORCEMENT: EPA's Dimock results cloud Pa.'s pollution case

Dimock, Pa., has gone from being seen as the town destroyed by drilling to being known as the place where Cabot Oil and Gas Corp. got "crucified." After a high-profile round of testing by U.S. EPA, the drilling industry is touting the headlines that call Dimock's water "safe." Those headlines, though, ignore the reality that Cabot did pollute the water in Dimock, at least according to the Pennsylvania Department of Environmental Protection. Cabot says it didn't.

THIS MORNING'S STORIES

2. NATURAL GAS: Public backlash is No. 1 threat to unconventional revolution -- IEA

3. WATER POLLUTION: Range accused of providing misleading data to Pa. families

4. OFFSHORE DRILLING: One firm abandons exploration off Cuba after well yields no oil

5. ENERGY MARKETS: Spanish company will spend billions to grow business in Americas

6. DEEPWATER DRILLING: 'Christmas trees' set to grow at sea, but rigs won't keep up -- report

7. WORKFORCE: Sagging natural gas production is dragging down

- industry growth in Canada
8. ARCTIC: Robust polar ice could delay Shell drilling projects
9. NATURAL GAS: N.Y. landowners in limbo as they duel for higher new lease rates
10. WATER: Companies clean up with technologies that allow wastewater reuse
11. OFFSHORE DRILLING: Carbon dioxide injections considered to enhance oil recovery in marine fields

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